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In re Application of
ZHOU

Application No.: 10/516,759

PCT No.: PCT/CN03/00217

Int. Filing Date: 26 March 2003

Priority Date: 26 March 2002

Attorney Docket No.: 524012000300

For: ERBB3 BASED METHODS AND

COMPOSITIONS FOR TREATING NEOPLASMS

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This decision is in response to applicants' submission filed 02 December 2004.

BACKGROUND

On 26 March 2003, applicants filed international application PCT/CN03/00217 which designated the U.S. and claimed a priority date of 26 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 September 2004 (26 September 2004 being a Sunday).

On 02 December 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 02 December 2004.

As to item (2), applicant submitted the petition fee on 02 December 2004.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.



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